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TAGS: EPET ETRD KPTD OPIC USTR GH
SUBJECT: 2010 Investment Climate Statement - Ghana

Openness to Foreign Investment

¶1. Attracting foreign direct investment continues to be a priority for the government of Ghana. The Mills Government, which came to power in January 2009, has maintained the encouragement of foreign investment in Ghana as an integral part of Ghana's economic policy.

¶2. The Government of Ghana recognizes that attracting foreign direct investment requires an enabling legal environment. The Government passed laws to encourage foreign investment and replaced regulations perceived as unfriendly to investors. The Ghana Investment Promotion Center (GIPC) Act, 1994 (Act 478), governs investment in all sectors of the economy except minerals and mining, oil and gas, and the free zones. Sector-specific laws further regulate banking, non-banking financial institutions, insurance, fishing, securities, telecommunications, energy, and real estate. Foreign investors are required to satisfy the provisions of the investment act as well as the provisions of sector-specific laws. In general, the GIPC has streamlined procedures and reduced delays. More information on investing in Ghana can be obtained from GIPC's website, www.gipc.org.gh.

¶3. The GIPC law applies to foreign investment in acquisitions, mergers, takeovers and new investments, as well as to portfolio investment in stocks, bonds, and other securities traded on the Ghana Stock Exchange.

¶4. The GIPC law specifies areas of investment reserved for Ghanaians, which include small-scale trading, operation of taxi services (except when a non-Ghanaian has a fleet of at least 10 vehicles), pool betting businesses and lotteries (except soccer pools), beauty salons and barber shops. The law further delineates incentives and guarantees that relate to taxation, transfer of capital, profits and dividends, and guarantees against expropriation.

¶5. The GIPC registers investments and provides assistance to enable investors to become established and take advantage of relevant incentives. GIPC registration can be filled out online at http://www.gipc.org.gh/forms_page.aspx. The Government of Ghana has no overall economic or industrial strategy that discriminates against foreign-owned businesses. In some cases a foreign investment can enjoy additional incentives if the project is deemed critical to the country's development. U.S. and other foreign firms are able to participate in government-financed and/or research and development programs on a national treatment basis.

¶6. Once all necessary documents are submitted, the GIPC states that new investments will be registered within five working days. However, the actual time required for registration can be significantly higher (sometimes up to one month).

¶7. Although registration is relatively easy, the entire process of establishing a business in Ghana is lengthy, complex, and requires compliance with regulations and procedures of at least five government agencies including the GIPC, Registrar General Department, Internal Revenue Service (IRS), Ghana Immigration Service, and Social Security and National Insurance Trust (SSNIT).

¶8. Nevertheless, the government's reforms in this area have yielded some returns. According to The World Bank's Doing Business 2010 report issued in 2009, the average time to start a business in Ghana is 33 days. This is a significant improvement from the 129 days it took in 2003. Nonetheless, Ghana still ranks 135th out of 181 countries surveyed by the World Bank. In terms of overall ease of doing business, the report ranks Ghana 92nd, down from 87th in 2009.

¶9. The GIPC requires foreign investors to satisfy a minimum capital requirement. The minimum capital required for foreign investors is USD 10,000 for joint ventures with Ghanaians or USD 50,000 for enterprises wholly owned by non-Ghanaians. Trading companies either wholly or partly-owned by non-Ghanaians require a minimum foreign equity of USD 300,000 and must employ at least ten Ghanaians. This may be satisfied through remitting convertible foreign currency to a bank in Ghana or by importing goods into Ghana for the purpose of the investment. The minimum capital requirement does not apply to portfolio investment, enterprises set up for export trading or branch offices.

¶10. The principal law regulating investment in minerals and mining is the Minerals and Mining Act, 2006 (Act 703). This law addresses different types of mineral rights, issues relating to incentives and guarantees, and land ownership. The 2006 law provides for a stability agreement, which protects the holder of a mining lease from future changes in law that may impose huge financial burden on the license holder for a period of 15 years. When investment exceeds USD500 million, a development agreement can be negotiated which contains elements of a stability agreement and a more favorable fiscal terms. The Minerals Commission (www.mincomgh.org) is the government agency that implements the law. Non-Ghanaians may invest in mining, except in small-scale (artisanal) mining, which is reserved for Ghanaians.

¶11. The Petroleum Exploration and Production Law, 1984 (PNDCL 84), known as the Petroleum Law, regulates oil and gas exploration and production in Ghana. The law deals extensively with petroleum contracts, the rights, duties, responsibilities of contractors, and compensation payable to those affected by activities in the petroleum sector. The Ghana National Petroleum Corporation (GNPC) (www.gnpcghana.com) is the government institution that administers this law. Following a significant oil discovery in Ghana in 2007, a new bill, Ghana Petroleum Regulatory Authority Bill, seeks to separate GNPC's current role as regulator and player. However, this bill has not yet been passed, and will likely be taken up in 2010 by Parliament. Several U.S. companies currently are involved in the oil and gas sector in Ghana.

¶12. There are no sectors in which American investors are denied the same treatment as other foreign investors. There are, however, some areas where foreign investors as a whole are denied national treatment: banking, fishing, mining and real estate. Regarding real estate, the 1992 Constitution recognized existing private and traditional title to land; however, freehold acquisition of land is no longer permitted. There is an exception for transfer of freehold title between family members for lands held under the traditional system. Foreigners are allowed to enter into long-term leases of up to 50 years (the lease may be bought and sold and/or renewed for consecutive terms) while Ghanaians are allowed to enter into 99-year leases.

¶13. The U.S. Embassy in Accra advises companies or individuals considering investing in Ghana or trading with Ghanaian counterparts to consult with a local attorney or business facilitation company. The Embassy maintains a list of local attorneys which is available on the embassy website (http://ghana.usembassy.gov) or upon request.

¶14. The following table includes third-party assessments of the Ghanaian investment climate:

MEASURE	YEAR	INDEX/RANKING
TI Corruption Index	2009	3.9 (67/180)
Heritage Economic Freedom	2009	58.1 (96/179)
World Bank Doing Business	2009	92/183
MCC Gov't Effectiveness	2009	0.72 (98 percent)
MCC Rule of Law	2009	0.80 (95 percent)
MCC Control of Corruption	2009	0.72 (97 percent)
MCC Fiscal Policy	2009	-9.7 (2 percent)
MCC Trade Policy	2009	65.3 (40 percent)

MCC Regulatory Quality	2009	0.71 (100 percent)
MCC Business Start Up	2009	0.95 (73 percent)
MCC Land Rights Access	2009	0.726 (81 percnt)
MCC Natural Resource Mgmt	2009	64.02 (54 percent)

Percent rankings for MCC measures indicate a percentile within peer income group.

Conversion and Transfer Policies

¶15. Ghana operates a free-floating exchange rate regime. Ghana's local currency, the Ghana cedi, can be exchanged for dollars and major European currencies. Investors may convert and transfer funds associated with investments provided there is documentation of how the funds were acquired. For details, consult the GIPC Act and the Foreign Exchange Act.

¶16. In July 2007, the government redenominated the cedi by removing 4 zeroes. As of January 1, 2008, the new currency, the Ghana cedi (GHC)(notes) and Ghana pesewa (coins) are the only currency in circulation. As of January 2010, one USD was equal to about 1.424 GHC and the largest bill is 50 GHC.

¶17. Ghana's hard currency needs are met largely through cocoa and gold export revenues, official assistance, and private remittances. The fall in the world prices of Ghana's export commodities in 1999 and increases in oil import bills led to a foreign currency shortage in 2000 and a subsequent, large depreciation of the cedi. The cedi became quite stable from 2003 to 2007, bolstered by sound macroeconomic policies, record levels of remittances and favorable cocoa and gold prices. High oil import bill and demand for non-oil imports in 2008, however, caused the cedi to depreciate by about 22 and 19 percent in 2008 and 2009 respectively.

¶18. Ghana's investment laws guarantee that investors can transfer the following in convertible currency out of Ghana: dividends or net profits attributable to an investment; loan service payments where a foreign loan has been obtained; fees and charges in respect to technology transfer agreements registered under the GIPC law; and the remittance of proceeds from the sale or liquidation of the enterprise or any interest attributable to the investment.

¶19. There is no legal parallel remittance system for investors. The Parliament passed the Foreign Exchange Act in November 2006. The Act provided the legal framework for the management of foreign exchange transactions in Ghana. It fully liberalized capital account transactions, including allowing foreigners to buy securities in Ghana. It also removed the requirement for the Central Bank to approve offshore loans. Payments or transfer of foreign currency can only be made through institutions such as banks or persons licensed to do money transfer. The new law also gives the Central Bank power to allow foreigners to buy securities in Ghana.

Expropriation and Compensation

¶20. Ghana's investment laws provide guarantees against expropriation and nationalization (the 1992 Constitution provides some exceptions to these laws). The Constitution sets out both exceptions and a clear procedure for the payment of compensation in allowable cases of expropriation or nationalization. The Government of Ghana may compulsorily take possession or acquire property only where the acquisition is in the interest of national defense, public safety, public order, public morality, public health, town and country planning or the development or utilization of property in a manner to promote public benefit. It must, however, make provision for the prompt payment of fair and adequate compensation. The Government of Ghana also allows access to the high court by any person who has an interest or right over the property.

¶21. American investors are generally not subject to differential or discriminatory treatment in Ghana, and there have been no official government expropriations in recent times. Since 2001, two U.S. investors have filed for international arbitration against the Ghana government, claiming expropriation. These cases were resolved when the Government of Ghana agreed to purchase the investments. Nonetheless, in both cases the U.S. investors agreed to the terms of the government purchase as an exit strategy, notwithstanding perceived inequitable terms.

Dispute Settlement

¶22. Ghana's legal system is based on British common law. Investors should note that the acquisition of real property (land) is governed by both statutory and customary law.

¶23. The judiciary comprises both the lower courts and the superior courts. The superior courts are the Supreme Court, the Court of Appeal, and the High Court. Lawsuits are permitted and usually begin in the High Court. There is a history of government intervention in the court system, although somewhat less so in commercial matters. The courts have, when the circumstances require, entered judgment against the government. However, the courts have been slow in disposing of cases and at times face challenges in enforcing decisions, largely due to resource constraints and institutional inefficiencies. There is interest in alternative dispute resolution, especially as it applies to commercial cases. Several lawyers are providing arbitration and/or conciliation services. Arbitration decisions are enforceable provided they are registered in the courts.

¶24. The government has established "fast-track" courts to expedite action on some cases. The "fast track" courts, which are automated (computerized) divisions of the High Court of Judicature, were intended to try cases to conclusion within six months. However, they have not succeeded in consistently disposing of cases within six months. In March 2005, the government established a commercial court to try commercial claims. The Court also handles disputes involving commercial arbitration and other settlement awards, intellectual property rights, including patents, copyrights and trademarks, commercial fraud, applications under the Companies Code, tax matters, and insurance and re-insurance cases. A distinctive feature of the commercial court is the use of mediation or other alternative dispute resolution mechanisms, which are mandatory in the pre-trial settlement conference stage.

¶25. Enforcement of foreign judgments in Ghana is based on the doctrine of reciprocity. On this basis, judgments from Brazil, France, Israel, Italy, Japan, Lebanon, Senegal, Spain, the United Arab Emirates, and the United Kingdom are enforceable. Judgments from American courts are not currently enforceable in Ghana.

¶26. The GIPC, Free Zones, Labor, and Minerals and Mining Laws outline dispute settlement procedures and provide for arbitration when disputes cannot be settled by other means. They also provide for referral of disputes to arbitration in accordance with the rules of procedure of the United Nations Commission on International Trade Law (UNCITRAL), or within the framework of a bilateral agreement between Ghana and the investor's country.

¶27. The United States has signed three bilateral agreements on trade and investment with Ghana: the OPIC Investment Incentive Agreement, the Trade and Investment Framework Agreement (TIFA), and the Open Skies Agreement. These agreements contain some provisions for investment and trade dispute settlement. When the parties do not agree on a venue for arbitration, the investor's choice prevails. In this regard, Ghana accepts as binding the international arbitration of investment disputes. Ghana does not have a bankruptcy statute. The Companies Code of 1963, however, provides for official closure of a company when it is unable to pay its debts.

¶28. In 1996, the privately managed Ghana Arbitration Center was established to strengthen the legal framework for protecting commercial and economic interests, and to bolster investors' confidence in Ghana. The Commercial Conciliation Center of the American Chamber of Commerce (Ghana) provides arbitration services on trade and investment issues.

¶29. Ghana signed and ratified the Convention on the Settlement of Investment Disputes in 1966, which allows for arbitration under ICSID - the International Center for the Settlement of Investment Disputes. However, for disputes within the energy sector, the government has expressed a preference for handling disputes under UNCITRAL rules. Ghana is also a signatory and contracting state of the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention").

Performance Requirements and Incentives

¶30. Ghana is in compliance with WTO Trade-Related Investment Measures (TRIMS) notification. Generally, Ghana does not have performance requirements for establishing, maintaining, and

expanding a business. In the case of banks, the opening of branches requires approval from the central bank. Investors are not required to purchase from local sources. Investors are not required to export a specified percentage of their output, except for free zone enterprises operating under the Free Zone Act, which must export 70 percent of their products.

¶31. Foreign investors are not required by law to have local partners except in the fishing, insurance, and mining industries. In the tuna-fishing industry, non-Ghanaians may own a maximum of seventy-five percent of the interest in a tuna-fishing vessel. In the insurance sector, a non-Ghanaian cannot own more than sixty percent of an insurance company. There is compulsory local participation in the extractive sector: by law, the Government of Ghana acquires an automatic ten percent of all interests in mining and oil and gas ventures (a carried interest, at no cost to the government). The 2006 Minerals and Mining law, however, allows the government of Ghana to negotiate any other form of participation.

¶32. There are no requirements on physical location of investments. However, there are tax incentives to encourage investment in specific geographic locations, primarily in areas outside the main urban centers. There are also no import substitution restrictions. While the only local employment requirement is that any investment in a trading enterprise must employ a minimum of ten Ghanaians, the issuance of visa/work permits for expatriate staff is tied to the size of the investment.

¶33. Ghana regulates the transfer of technologies not freely available in Ghana. For example, according to the Technology Transfer Regulations, 1992, total management and technical fee levels should not exceed 8 percent of net sales. Higher fees have to be approved by GIPC. Among others, the regulation does not allow agreements that impose obligations to procure personnel, inputs, and equipment from the transferor or specific source. The duration of related contracts cannot exceed 10 years and cannot be renewed for more than 5 years. Any provisions in the agreement inconsistent with Ghanaian regulations are unenforceable in Ghana.

¶34. Investment incentives differ slightly depending upon the law under which an investor operates. For example, while all investors operating under the Free Zone Act are entitled to a ten-year corporate tax holiday, investors operating under the GIPC law are not automatically entitled to a tax holiday. Tax incentives vary depending upon the sector in which the investor is operating.

¶35. All investment-specific laws contain some incentives. The GIPC law allows for import and tax exemptions for plant inputs and machinery (and parts thereof) imported for the purpose of the investment. Specifically, chapters 82, 84, 85, and 89 of the Customs Harmonized Commodity and Tariff Code zero-rates (i.e. does not levy import duty on) these production items. The Government of Ghana recently imposed a five percent import duty on some items that were previously zero-rated, to conform with the ECOWAS common external tariff.

¶36. The Ghanaian tax system is replete with tax concessions that considerably reduce the effective tax rate. The minimum incentives are specified in the GIPC law and are not applied in an ad hoc or arbitrary manner. Once an investor has been registered under the GIPC law, the investor is entitled to the incentives provided by law. The government, however, has discretion to grant an investor additional customs duty exemptions and tax incentives beyond the minimum stated in the law.

¶37. The GIPC website (www.gipc.org.gh) provides a thorough description of available incentive programs. The law also guarantees an investor all the tax incentives provided for under Ghanaian law. For example, rental income from commercial and residential property is exempt from tax for the first five years after construction. Similarly, income from a company selling or leasing out premises is income tax exempt for the first five years of operation. Rural banks and cattle ranching are exempt from income tax for 10 years.

¶38. The government lowered the corporate tax rate to 25 percent (from 32.5 percent in 2004 and 28 percent in 2005) in 2006. The new rate applies to all sectors except income from non-traditional exports (eight percent) and oil and gas exploration companies (35 percent). For some sectors there ar tax holidays for a period of years. These sectors include free zone enterprises and developers (zero percent for the first 10 years and eight percent thereafter), real estate development and rental (zero percent for the first five years and 25 percent thereafter), agro-processing companies (zero percent for the first five years after which the tax rate ranges from zero to 25 percent depending on the location of the

company in Ghana), and waste processing companies (zero percent for seven years and 25 percent thereafter). Tax rebates are also offered in the form of incentives based on location. A capital allowance in the form of accelerated depreciation is also applicable in all sectors except banking, finance, commerce, insurance, mining, and petroleum.

¶39. The government charges a 12.5 percent VAT plus a 2.5 percent Health Insurance Levy on most imports, all consumer purchases, services, accommodation in hotels and guest houses, food in restaurants, hotels and snack bars, as well as advertising, betting and entertainment.

¶40. Ghana has no discriminatory or excessively burdensome visa requirements. A foreign investor who invests under the GIPC law is automatically entitled to a specific number of visas/work permits based on the size of the investment. When an investment of USD 10,000 or its equivalent is made in convertible currency or machinery and equipment, the enterprise can obtain a visa/work permit for one expatriate employee. An investment of USD 10,000 to USD 100,000 entitles the enterprise to two automatic visas/work permits. An investment of USD 500,000 and above allows an enterprise to bring in four expatriate employees. An enterprise may apply for extra visas/work permits, but the investor must justify why a foreigner must be employed rather than a Ghanaian. There are no restrictions on the issuance of work and residence permits to Free Zone investors and employees. Several U.S. firms have recently reported extensive delays in receiving the work permits to which they are entitled by their investment levels.

¶41. Ghana has no import price controls. It is pursuing a liberalized import regime policy within the framework of the World Trade Organization to accelerate industrial growth. The Government of Ghana joined other ECOWAS countries on the phased implementation of the ECOWAS Common External Tariff on January 1, 2005.

Right to Private Ownership and Establishment

¶42. Ghana's laws recognize the right of foreign and domestic private entities to own and operate business enterprises. Foreign entities are, however, prohibited by law from engaging in certain business activities in Ghana (see section 1, paragraph 4).

¶43. Private entities may freely acquire and dispose of their interests in Ghana. When a foreign investor disposes of an interest in a business enterprise, the investor is entitled to repatriate his or her earnings in a freely convertible currency.

¶44. Private and public enterprises compete on an equal basis with respect to access to credit, markets, licenses, and supplies.

Protection of Property Rights

¶45. The legal system recognizes and enforces secured interest in property, both chattel and real property. The process to get clear title over land is often difficult, complicated, and lengthy. It is important to conduct a thorough search at the Lands Commission to ascertain the identity of the true owner of any land being offered for sale. Investors should be aware that land records can be incomplete or non-existent and, therefore, clear title may be impossible to establish.

¶46. Mortgages exist, although there are only a few thousand in existence due to a variety of factors including land ownership issues and scarcity of long-term finance. Mortgages are regulated by the Mortgages Decree. In the case of default, the property is sold after obtaining court approval. A mortgage must be registered under the Land Title Registration Law, a requirement that is mandatory for it to take effect. Registration with the Land Title Registry is a reliable system of recording the transaction.

¶47. The protection of intellectual property is an evolving area of law in Ghana. Progress has been made in recent years to afford protection under both local and international law. Ghana is a party to the Universal Copyright Convention and a member of the World Intellectual Property Organization (WIPO), the English-speaking African Regional Industrial Property Organization (ESARIPO), and the World Trade Organization (WTO). Ghana's Parliament in 2004, ratified the WIPO internet treaties, namely the WIPO Copyright Treaty and the WIPO Performance and Phonograms Treaty. Since December 2003, Ghana's Parliament has passed six bills designed to bring Ghana into compliance with WTO TRIPS (Trade-Related Aspects of

Intellectual Property Rights) requirements. The new laws are: Copyright, Trade Marks, Patents, Layout-Designs (Topographies) of Integrated Circuits, Geographical Indications, and Industrial Designs. Except for the Copyright law, implementing legislation necessary for fully effective promulgation has not been passed.
¶48. Piracy of intellectual property is known to take place. Although precise statistics are not available for many sectors, there is evidence that the proportion of counterfeits is high for products such as software and (to a lesser extent) pharmaceuticals. Counterfeit products have also been discovered from such disparate sectors as industrial epoxy, cosmetics and household cleaning products. Based on cases where it has been possible to trace the orgin of counterfeit goods, most (although not all) have been found to have been produced outside the region (usually in Asia). Holders of intellectual property rights have access to local courts for redress of grievances, although the few trademark, patent, and copyright infringement cases that have been filed in Ghana by U.S. companies are reported to move through the legal system slowly.

Transparency of the Regulatory System

¶49. The Government of Ghana's policies of trade liberalization and investment promotion are guiding its effort to create a clear and transparent regulatory system. The GIPC law codified the government's desire to present foreign investors with a liberal and transparent foreign investment regulatory regime. The GIPC has established a "one-stop shop" for investment registration. In practice, it does not really operate as a "one-stop shop;" it serves more as a facilitating mechanism.
¶50. The Government of Ghana has established regulatory bodies such as the National Communications Authority, the National Petroleum Authority, and the Public Utilities Regulatory Commission to oversee activities in the telecommunications, downstream petroleum, power, and water sectors. The creation of these bodies was a positive step but they remain relatively under-resourced and subject to political influence, which limits their ability to deliver the intended level of oversight.

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Efficient Capital Markets and Portfolio Investment
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¶51. Private sector growth in Ghana has been constrained by limited financing opportunities for private investment. Almost two decades after the beginning of financial sector reforms in 1988, much remains to be done. Confidence in the financial sector has suffered because of a legacy of government interventions, many of which did not facilitate the free flow of financial resources within the country. While credit to the private sector has increased, the high interest rates on bank loans (in the 30 percent range) continue to be an impediment to raising capital on the local market.
¶52. Banks in Ghana are relatively small. The largest in the country, Ghana Commercial Bank (GCB), has a net worth of approximately USD 150 million. Out of the 26 banks in Ghana, the government has a majority ownership position in GCB and fully owns two other banks. Under the central bank's new minimum capital requirement for banks, existing banks with majority foreign ownership had to increase their capital base to GHC 60 million (approximately USD 42 million) from GHC 7 million (approximately USD 5.0 million) by December 31, 2009, while banks with Ghanaian majority share ownership (local banks) will first have to increase their capital base to GHC 25 million by December 31, 2009, and have until 2012 to fully increase it to GHC 60 million. This new level applies to new banks entering the market. The Bank of Ghana abolished official secondary reserve requirements for financial institutions in 2006. The banking reserve requirement is now 9 percent.
¶53. Recent developments in the non-banking financial sector indicate increased diversification. Among the non-banking financial institutions, leasing companies, building societies and savings and loan associations have been innovative in serving savers and borrowers. In addition, the formulation of new regulatory policies for the Ghana Stock Exchange (GSE)(which as of December 2009 had 36 listed companies, 3 government bonds and 1 corporate bond and oversees portfolio investment) has had varied performance. The Ghana Stock Exchange (GSE) was one of the best performers among emerging markets in 2007, but in 2008 it was one of the worst performers, recording a decline of 47.9 percent. It is open to all

foreign buyers. Both foreign and local companies are allowed to list on the GSE. The Securities Regulatory Commission regulates the activities on the Exchange.

Competition from State-Owned Enterprises

¶54. The Ghanaian government at one point controlled more than 350 state-owned enterprises, but nearly 300 were privatized by the end of 2000 under the privatization program of former President Rawlings. Given privatization efforts over the past decade, only a handful of state-owned enterprises remain, some of which are in poor financial condition. The government also pursues partial privatization through selling equity stakes in state-owned enterprises on the GSE.
¶55. The Divestiture Implementation Committee (www.dic.com.gh) oversees most privatization efforts. Actual divestiture is usually done through a bidding process; bidders are evaluated on the basis of criteria including management skills, financial resources, and business plans. New owners are expected to build the enterprises into profitable, tax paying, productive ventures employing Ghanaians. Generally, foreign investors constitute the interested bidders. Few local investors have sufficient capital to participate in divestitures, but local firms may partner with foreign firms.
-------------------------------Corporate Social Responsibility
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¶56. Corporate social responsibility (CSR) is of growing concern among Ghanaian companies. The Ghana 100 is a ranking of the top performing companies. It is based on several criteria, including a 10 percent weight assigned to corporate social responsibility, including philanthropy. Consumers do not generally demand CSR activities from all companies, but they expect them from companies engaged in the extractive industries. Local communities where foreign firms reap a profit from natural resources expect those firms to give back to the communities in which they are active.

¶57. Foreign and local enterprises do not tend to follow CSR guidelines such as the OECD Guidelines for Multinational Enterprises.

Political Violence

¶58. Ghana offers a relatively stable and predictable political environment for American investors. Ghana has a solid democratic tradition, completing its fifth consecutive democratic election in December 2008. There is no indication at present that the level of political risk in Ghana will change markedly over the near term. Ex-president John Agyekum Kufuor of the New Patriotic Party completed his second, and final, four-year term in 2008 and peacefully handed over power to the National Democratic Congress's John Atta-Mills, who began a four-year term in January 2009. The 2008 election was keenly contested but generally peaceful and conducted transparently in a free and fair manner.

Corruption

¶59. Corruption in Ghana is comparatively less prevalent than in other countries in the region, although it remains a problem. However, a few U.S. firms have identified corruption as the main obstacle to foreign direct investment. Since 2006, Ghana's score and ranking on the Transparency International Global Corruption Perceptions Index has improved slightly.
¶60. Ghana is not a signatory to the OECD Convention on Combating Bribery. It has, however, taken steps to amend laws on public financial administration and public procurement. The public procurement law, passed in January 2004, seeks to harmonize the many public procurement guidelines used in the country and also to bring public procurement into conformity with WTO standards. The new law aims to improve accountability, value for money, transparency and efficiency in the use of public resources. However, some in civil society have criticized the law as inadequate. The government, in conjunction with civil society representatives, drafted and presented to Parliament in November 2009, the Freedom of Information

bill, which will allow greater access to public information. Notwithstanding the new procurement law, companies cannot expect complete transparency in locally funded contracts. There continue to be allegations of corruption in the tender process and the government has in the past set aside international tender awards in the name of national interest.

¶61. American businesses report being asked for "favors" from contacts in Ghana, in return for facilitating business transactions. These favors could potentially conflict with U.S. business ethics or laws, and U.S. business visitors should make clear that U.S. companies operating abroad are subject to the Foreign Corrupt Practices Act of 1977. The Government of Ghana has publicly committed to ensuring that government officials do not use their positions to enrich themselves. Official salaries, however, are modest, especially for low-level government employees, and such employees have been known to ask for a "dash" (tip) in return for assisting with license and permit applications.

¶62. Commercial fraud in the form of scams, especially in gold or currency deals, is frequent in Ghana. These are commonly termed "419" scams. Potential buyers of gold and diamond are strongly advised to deal directly with the Precious Minerals Marketing Company (PMMC) in Ghana. Gold and diamonds can be exported legally from Ghana only through the PMMC, and prices are based solely on the London Exchange price on the day of export. No discounting or negotiation of prices prior to export by the PMMC is valid. U.S. firms can request a background check on companies and individuals with whom they wish to do business by using the U.S. Commercial Service's International Company Profile (ICP). Requests for ICPs should be made through the nearest U.S. Export Assistance Center. For more information about the U.S. Commercial Service, visit www.buyusa.gov/ghana.

¶63. The 1992 Constitution established the Commission for Human Rights and Administrative Justice (CHRAJ). Among Qer things, the Commission is charged with investigating all instances of alleged and suspected corruption and the misappropriation of public funds by officials. The Commission is also authorized to take appropriate steps, including providing reports to the Attorney General and the Auditor-General, in response to such investigations. The Commission has a mandate to investigate alleged offenders when there is sufficient evidence to initiate legal actions. The Commission, however, is under-resourced and few prosecutions have been made since its inception.

¶64. In 1998, the Government of Ghana also established an anti-corruption institution, called the Serious Fraud Office (SFO), to investigate corrupt practices involving both private and public institutions. A law to revise the SFO law is being drafted and it is expected to define more clearly treatment of the proceeds from criminal activities. The government passed a "Whistle Blower" law in July 2006, intended to encourage Ghanaian citizens to volunteer information on corrupt practices to appropriate government agencies. In December 2006, CHRAJ issued guidelines on conflict of interest to public sector workers. In December 2009 CHRAJ and the government issued a new Code of Conduct for Public Officers in Ghana with guidelines on conflicts of interest. A Freedom of Information bill is still pending in Parliament.

Bilateral Investment Agreements

¶65. Ghana has bilateral investment agreements with the following countries: the United Kingdom; People's Republic of China; Romania; Denmark; and Switzerland. These agreements were signed and ratified between 1989 and 1992. Italy and France are negotiating similar arrangements. Agreements with Germany, India, Pakistan, South Korea, North Korea, and Belgium are being considered. The United States signed three agreements between 1998 and 2000: the OPIC Investment Incentive Agreement, the Trade and Investment Framework Agreement (TIFA), and the Open Skies Agreement.

¶66. Ghana has met eligibility requirements to participate in the benefits afforded by the African Growth and Opportunity Act (AGOA) and also qualified for the apparel benefits under AGOA.

OPIC and Other Investment Insurance Programs

¶67. OPIC is active in Ghana, and OPIC officers visit Ghana periodically to meet with representatives of American and Ghanaian firms. OPIC has launched several investment funds, which are

sources of information and financing for investment in Ghana. The African Project Development Facility (APDF) and the African investment program of the International Finance Corporation are other sources of information. Ghana is a member of the World Bank Group's Multilateral Investment Guarantee Agency (MIGA).

Labor

¶68. Ghana has a large pool of unskilled labor. English is widely spoken, especially in urban areas. Labor regulations and policies are generally favorable to business. Although labor relations are in general positive, there are occasional labor disagreements stemming from wage policies in Ghana's inflationary environment. Many employers find it advantageous to maintain open lines of communication on wage calculations and incentive packages. A revised Labor Law of 2003 (Act 651) unified and modified the old labor laws to bring them into conformity with the core principles of the International Labor Convention, to which Ghana is a signatory. All the old labor-related laws, except the Children's Law (Act 560), have been repealed.

¶69. Under the Labor Law, the Chief Labor Officer issues collective bargaining agreements (CBA) in lieu of the Trade Union Congress (TUC). This change limited the TUC's influence, since the prior CBA provisions implicitly compelled all unions to be part of TUC. Also, instead of the labor court, a National Labor Commission was established to resolve labor and industrial disputes. Finally, the Tripartite Committee that determines the minimum daily wage was given legal authority.

¶70. There is no legal requirement for labor participation in management. However, many businesses utilize joint consultative committees in which management and employees meet to discuss issues affecting business productivity and labor issues.

¶71. There are no statutory requirements for profit sharing, but fringe benefits in the form of year-end bonuses and retirement benefits are generally included in collective bargaining agreements.

¶72. Post recommends consulting a local attorney for detailed advice regarding labor issues. The U.S. Embassy in Accra maintains a list of local attorneys, which is available on the US Embassy's web site http://ghana.usembassy.gov or upon request.

Foreign Trade Zones/Free Ports

¶73. Free Trade Zones were established in May 1996, one near Tema Steelworks, Ltd., in the Greater Accra Region, and two other sites located at Mpintsin and Ashiem near Takoradi. The seaports of Tema and Takoradi, as well as the Kotoka International Airport and all the lands related to these areas, are part of the free zone. The law also permits the establishment of single factory zones outside or within the areas mentioned above. Under the law, a company qualifies to be a free zone company if it exports more than 70 percent of its products. Among the incentives for free zone companies are a ten-year corporate tax holiday and zero duty on imports.

¶74. To make it easier for free zone developers to acquire the various licenses and permits to operate, the Ghana Free Zones Board (www.gfzb.com) provides a "one-stop approval service" to assist in the completion of all formalities. A lack of resources has limited the effectiveness of the Board, however. To further facilitate operations in the zones, nationals of OECD countries, East Asian countries, and the Republic of South Africa may with advance notice obtain entry visas at the international airport in Accra. However, all foreign employees of businesses established under the program will require work and residence permits.

Major Foreign Investors in Ghana

¶75. Major foreign investments in Ghana are mainly in mining, off-shore oil exploration and manufacturing. Great Britain is Ghana's leading foreign investor with direct investment exceeding USD 750 million. Major U.S. investors are Chevron West Africa Gas Ltd. (West Africa Gas Pipeline); Kosmos Energy, Anadarko, Hess, and Vanco (oil and gas exploration); Newmont Mining (gold mining); Archer Daniels Midland, CargillQcoa processing); and Affiliated Computer Services (data processing).

Foreign Direct Investment (FDI) Statistics

¶76. The following table shows recent dramatic growth in FDI in Ghana.

	FDI (USD million)	FDI as share of GDP (percent)
2000	165.9	3.3
2001	89.3	1.7
2002	58.9	0.9
2003	136.6	1.8
2004	139.7	1.6
2005	145.0	1.4
2006	434.5	3.5
2007	970.4	6.4
2008	2,111.6	13.2
2009*	660.3	4.3

* Provisional figure for - Jan. to Sep. 2009
Source: Bank of Ghana, International Monetary Fund (IMF)

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